

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

IN RE DARRYL E. AND RONDA  
HOWARD,

Plaintiff,

v.

DEERE CREDIT, INC., ET AL.

Defendant.

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4:06CV3199

ORDER

This matter is before the court on the appeal, Filing No. 1, of the debtors from a determination of the bankruptcy court. Filing No. 2. Debtors have requested that this court review the appeal rather than an appellate panel pursuant to 28 U.S.C. § 158(c)(1)(A). Filing No. 4. “When a bankruptcy court’s judgment is appealed to the district court, the district court acts as an appellate court and reviews the bankruptcy court’s legal determinations de novo and findings of fact for clear error.” *In re Rine & Rine Auctioneers, Inc.*, 74 F.3d 854, 857 (8<sup>th</sup> Cir. 1996).

Defendant appeals to the United States District Court for the District of Nebraska from an order and its findings and contents dated July 11, 2006, together with Docket Entry No. 72, attached as Exhibit A and Group Exhibit B, issued by the above U.S. Bankruptcy Court in Nebraska which:

1. Dismissed the Debtor/Farmer/Appellants’ Chapter 12 Proceeding filed March 17, 2006;
2. Granted the Joint Motion of Deere Credit and Prudential of America to Dismiss Chapter 12 filed under New Bankruptcy Code Amendments effective October 17, 2005;
3. Barred the Debtor/Farmer/Appellants from any reorganizational efforts under Chapter 11, 12, or 13 for 18 months;
4. Made certain findings, which were not based on the evidence or facts in this case.

Filing No. 1.

The court has carefully reviewed the motion and the bankruptcy court order and the filings submitted by the parties. The bankruptcy court noted that this is the third reorganization case filed by the debtors, as the first was filed in 1988 and the second in 2002. In March of 2006 the debtors filed this third plan of reorganization under Chapter 12. This filing occurred just three days after this court affirmed the dismissal of the second case, a Chapter 11 filing. *In Re Darryl E. & Ronda Howard*, 05CV3052, Filing No. 46. The creditors filed a joint motion to dismiss the Chapter 12, alleging mismanagement of the estate and bad faith. The bankruptcy court found substantial evidence to support both of the theories set forth by the creditors. Filing No. 1. The court has carefully reviewed the determinations of the bankruptcy court and agrees in all respects. The court concludes that the bankruptcy court has made no errors of law or fact. Accordingly, the court finds this case should be dismissed.

IT IS ORDERED:

1. That the debtors' appeal in this case, Filing No. 1, is denied. This case is dismissed. A separate order and judgment will be entered in conjunction with this case.
2. That the order of the bankruptcy court dated July 11, 2006, Filing No.1, is affirmed.

DATED this 4<sup>th</sup> day of October, 2006.

BY THE COURT:

s/Joseph F. Bataillon  
JOSEPH F. BATAILLON  
Chief United States District Judge